

1 Counsel Listed on Signature Block

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3 **UNITED STATES DISTRICT COURT**  
4 **NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION**

5

6 IN RE: CATHODE RAY TUBE (CRT)  
7 ANTRUST LITIGATION

Case No. C07-5944 SC  
MDL No. 1917

8 This Document Relates to:

9 **ALL ACTIONS**

**STIPULATION AND ~~PROPOSED~~  
ORDER FOR LIMITED DISCOVERY  
STAY**

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12 WHEREAS these consolidated civil cases arise from an alleged conspiracy in  
13 violation of the Sherman Act to fix the prices of Cathode Ray Tubes ("CRTs") and finished  
14 products containing CRTs ("CRT products")<sup>1</sup>;

15 WHEREAS there is an ongoing criminal grand jury investigation involving the  
16 products at issue in this case;

17 WHEREAS the United States has filed a Motion for a Limited Stay of Discovery;

18 WHEREAS the parties have met and conferred on the scope of a limited discovery  
19 stay;

20 **PLAINTIFFS, DEFENDANTS, AND THE UNITED STATES, BY AND**  
21 **THROUGH THEIR UNDERSIGNED COUNSEL, HEREBY STIPULATE AND AGREE**  
22 **AS FOLLOWS:**

23 1. This Stipulation and Order shall limit discovery in these consolidated cases  
24 during the six (6) month period following entry of the Stipulation and Order by the Court,

25  
26 <sup>1</sup> Any reference to products containing CRTs is not intended to have any bearing on the legal question of  
27 whether purchasers of those products are proper class members. By agreeing to provide certain discovery  
of CRT products by way of this stipulation, the parties agree that defendants have not waived their right to  
contest further discovery of documents and information relating to CRT products.

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1 unless extended by the Court upon motion.

2       2. During the limited discovery stay, no discovery shall be conducted in this  
3 case (including, without limitation, document requests, interrogatories, requests to admit, or  
4 depositions) that reflects, refers to, or relates to any understandings, agreements, contacts,  
5 meetings, or communications, between or among any manufacturers of CRTs or CRT  
6 products, relating to the sale, pricing, production, volume, market share, customers,  
7 capacity, or distribution of CRTs or CRT products.

8       3. During the limited discovery stay, no discovery shall be conducted in this  
9 case (including, without limitation, document requests, interrogatories, requests to admit, or  
10 depositions) that reflects, refers to, or relates to grand jury proceedings concerning CRTs or  
11 CRT products, including any party's or witness's communications with the United States,  
12 or with the grand jury investigating CRTs or CRT products, except by the order of the  
13 Court upon good cause shown and consistent with governing law.

14       4. To the extent consistent with the above, the following discovery is permitted  
15 during the limited discovery stay:

16           a. plaintiffs are entitled to seek document discovery from third party  
17 organizations, including trade associations, that collect market  
18 information about CRTs and CRT products, limited to the subjects set  
19 forth in this paragraph 4;

20           b. the undersigned defendants shall produce documents sufficient to show  
21 the dollar and/or unit amount of purchases and/or sales of CRTs and/or  
22 CRT products in the United States by defendants from or to third  
23 parties, from or to other defendants, or by or between a defendant's  
24 subsidiaries, joint ventures, or affiliates, and either documents  
25 sufficient to show, or written answers disclosing, the identity of the  
26 undersigned defendants' customers and/or distributors of CRTs and/or  
27 CRT products in the United States;

28           c. the undersigned defendants shall produce documents sufficient to show

1 the dollar and/or unit amount of sales of CRTs and/or CRT products in  
2 the United States to putative class members;

3 d. plaintiffs are entitled to seek discovery of defendants' (including their  
4 subsidiaries, joint ventures, and affiliates) production capacity,  
5 capacity utilization, production costs, inventory levels, sales volumes,  
6 product lines, profitability, competitive position, market share, sales  
7 terms and conditions, costs, process, and shipments for CRTs or CRT  
8 products; the rules and procedures governing such discovery are set  
9 forth in paragraph 12.

10 e. the undersigned defendants shall produce either documents sufficient  
11 to show, or written answers disclosing, the identities of persons in  
12 positions of management or control of defendants' respective CRT  
13 operations, including any directors, officers, managing agents and  
14 employees; discovery may seek narrative answers, which include the  
15 names, positions, dates of employment, tenure and addresses for each  
16 person identified during the class period;

17 f. the undersigned defendants shall produce either documents sufficient  
18 to show, or written answers disclosing, the storage, location, retention,  
19 destruction or identity of relevant corporate records; and

20 g. to the extent that any defendant takes the position that no discovery  
21 should go forward against it because the Court lacks personal  
22 jurisdiction over that defendant, plaintiffs shall be allowed to seek  
23 discovery relating to the issue of personal jurisdiction over that  
24 defendant, but notwithstanding the above, that defendant reserves all  
25 objections to all discovery against it on any subject. Defendants who  
26 intend to assert such a personal jurisdiction defense shall serve a short  
27 statement explaining the basis for their position by October 15, 2008.  
28 Neither executing this Stipulation and Order nor complying with its

terms, including, but not limited to, serving the short statement referenced herein shall constitute a waiver of an undersigned defendant's jurisdictional defense.

4       5. After the filing of consolidated amended complaints and the resolution of  
5 motions to dismiss, class certification discovery is permitted, except as prohibited by the  
6 other terms of this Stipulation and Order.

7        6.        This Stipulation and Order does not prohibit the service of interrogatories,  
8 requests for admissions, requests for production of documents, or third party document  
9 subpoenas, as set forth in paragraph 4(a) above, except to the extent that such discovery  
10 requires the production of discovery which is stayed hereunder. No deposition discovery,  
11 discovery of emails or email searches shall take place during the stay period.

12        7. All formal discovery requests shall be served on the United States at least  
13 three weeks before the discovery is due to be produced. Any party and/or the United States  
14 may object to discovery on the basis that the requested discovery seeks information or  
15 documents prohibited by this Stipulation and Order.

16 8. Any party and/or the United States can request a modification of this  
17 Stipulation and Order upon a showing of good cause.

18        9. The United States shall report to the Court on the status of the grand jury  
19 investigation and/or file a motion with the Court to extend the stay by January 30, 2009.  
20 On March 6, 2009, the Court shall conduct a Status Conference and/or hear any motion to  
21 extend the stay.

22        10.    No undersigned defendant who has agreed to produce discovery pursuant to  
23 paragraph 4 above shall move for a stay of that agreed-to discovery on any grounds,  
24 including under *Bell Atlantic Corp. v. Twombly*, 127 S. Ct. 1955 (2007). All defendants  
25 reserve their rights to argue for a stay of any other discovery on any grounds.

26        11. On June 11, 2008, plaintiffs provided to defendants a list of those defendant  
27 entities that had previously been named in the direct and indirect purchaser complaints. By  
28 September 15, 2008, each defendant shall confirm the proper names of the listed entities

1 that were involved in its CRT business. To the extent the previously filed complaints  
2 erroneously named an entity that was not in the CRT business and/or did not use the correct  
3 name for an entity, defendants shall so advise and provide the correct name for such entity.  
4 By September 30, 2008, plaintiffs shall inform each defendant whether plaintiffs intend to  
5 name the defendant in the consolidated amended complaints. Those defendants who will  
6 not be named in the consolidated amended complaints shall have no discovery obligations  
7 pursuant to this Stipulation and Order.

8 12. Paragraph 4 of this Stipulation and Order shall constitute a request for  
9 production of documents by plaintiffs' counsel, consistent with, and governed by, the  
10 Federal Rules of Civil Procedure (including the definition of "possession, custody, or  
11 control"), on all defendants for production of documents sufficient to show the information  
12 requested under paragraph 4(b-f) above. Attached hereto as Appendix A is a description of  
13 the agreements that some of the undersigned defendants have reached about discovery  
14 which they will produce pursuant to paragraph 4(d) above. All of the discovery that the  
15 undersigned defendants have agreed to produce pursuant to paragraph 4(d) above, as set  
16 forth in Appendix A, as well as the information required by paragraph 4(b), (c), (e) and (f),  
17 shall be produced by the undersigned defendants, without any objection, by November 14,  
18 2008. If plaintiffs seek any other discovery pursuant to paragraph 4 against the undersigned  
19 defendants, defendants reserve all objections to such additional discovery. Defendants who  
20 have not signed this stipulation reserve all objections to any discovery under paragraph 4  
21 above against them and plaintiffs reserve all rights to seek discovery against such  
22 defendants consistent with this Stipulation and Order. Any non-signing defendant who  
23 intends to oppose any discovery under paragraph 4 above shall file their written objections  
24 to such discovery by October 15, 2008. Any defendant who has not made an agreement to  
25 produce documents in response to paragraph 4(d) above, as set forth in Appendix A, shall  
26 file its objections to such paragraph 4(d) discovery by October 15, 2008.

27 13. Direct purchaser and indirect purchaser plaintiffs shall file consolidated  
28 amended complaints by March 16, 2009.

1       14. During the term of this Stipulation and Order, the relevant time period for  
 2 discovery allowed hereunder shall extend back no further than the year 2000 for all parties,  
 3 to the extent defendants possess responsive information extending back to the year 2000.  
 4 This paragraph is without prejudice to the position of any party as to what the relevant  
 5 discovery period is upon the lifting of the stay and the commencement of full discovery.

6       15. After the plaintiffs' consolidated amended complaints are filed, the parties  
 7 shall meet and confer about a schedule for motions to dismiss.

8       16. Defendants may join this Stipulation and Order after the date of its execution  
 9 by notifying plaintiffs in writing of their intention to do so.

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11 Dated: September 11, 2008

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1 **PROPOSED ORDER**  
2 PURSUANT TO STIPULATION, IT IS SO ORDERED.

3  
4 Dated: Sept. 12 '08

5   
6 Honorable Samuel Conti  
7 UNITED STATES DISTRICT JUDGE  
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**Appendix A to Stipulation and [Proposed] Order for Limited Discovery Stay**

Entities	Agreement to Produce the Following Discovery Pursuant to Paragraph 4(d) of Stipulation and [Proposed] Order for Limited Discovery Stay
Matsushita Electric Industrial Co., Ltd.; MT Picture Display Co., Ltd.; MT Picture Display Corporation of America (NY) (defunct); Panasonic Corporation of North America	<p>(1) Consolidated results for CRT divisions and subsidiaries, which set forth certain sales and profit numbers for both domestic and overseas CRT subsidiaries.</p> <p>(2) Cumulative P/Ls on an annual basis for CRT divisions and subsidiaries, which include, among other things, the following types of information: (i) production quantities; (ii) sales quantities; (iii) various types of cost and profit information, including information on certain costs which are characterized in the documents as variable costs and fixed expenses.</p> <p>(3) Capacity and capacity utilization for CRT factories.</p>
Samsung SDI America, Inc.; Samsung SDI Co., Ltd.	<p>(1) Publicly available English language annual reports and audited financial statements for the CRT business, available from at least 2001.</p> <p>(2) Summary report materials in several different formats, but primarily in chart format with some explanatory text, primarily in Korean, and containing what appear to be the kinds of materials that would be displayed at executive level strategy meetings, including production, market share, and capacity information, among other subjects, for the CRT business.</p>

Entities	Agreement to Produce the Following Discovery Pursuant to Paragraph 4(d) of Stipulation and [Proposed] Order for Limited Discovery Stay
Chunghwa Picture Tubes, Ltd.	<ul style="list-style-type: none"> <li>(1) Publicly available annual reports and audited financial statements. These are available from 2002 (there may be others available before that time).</li> <li>(2) Presentations made at quarterly investor relations conferences.</li> <li>(3) Third-party reports regarding CRTs.</li> </ul>
Philips Electronics North America Corporation	<ul style="list-style-type: none"> <li>(1) Public annual reports.</li> <li>(2) Public financial statements for the top line entities.</li> <li>(3) Capacity information regarding Philips' former CRT plants as of the date of divestiture in 2001.</li> </ul>